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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,388	11/28/2003	Christian E. Wilkey	23975.00	7186

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EXAMINER

HAMILTON, ISAAC N

ART UNIT PAPER NUMBER

3724

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SW

Office Action Summary	Application No.		Applicant(s)	
	10/722,388		WILKEY, CHRISTIAN E.	
	Examiner		Art Unit	
	Isaac N Hamilton		3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/28/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because "said" in line 4. Correction is required. See MPEP § 608.01(b).
3. The disclosure is objected to because of the following informalities: "may" on page 6, line 6, should be changed to --may be--.

Appropriate correction is required.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "U-shaped cross section" in claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

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should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claims 17 and 18 are objected to because of the following informalities: "engaged" in claim 17, line 3, should be changed to --engage--; "herein" in claim 18, line 1, should be changed to --wherein--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 recites the limitation "said pivot" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

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8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-11, 13, 14, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biester (2,116,137) in view of Glenn (4,941,261). Biester discloses frame 5, 6, 29, 18, 26, 27, 22, 23, 24, 9; elongated top portion/axis 5; front of frame is on the left-side of figure 1; rear side of frame is on the right-side of figure 1; front leg 6; back leg 18, 29; means for supporting 22, 23, 24, 26 and 27; blade 19; support arm 8, 10, 30, 31, 33, 34; plurality of degrees as evidenced by elements 10 and elements 11; means for receiving the support arm 11; support arm is fully retracted when the element 10 is engaging the left-most element 11 in figure 1; support arm is fully extended when the element 10 is engaging the right-most element 11 in figure 1; support arm housing 11; latch/latch mechanism 17, 32, 35; means for locking is the tip of the latch that is juxtaposed between latching portion 35 and notch 34; latching portion 35, which engages notch 34; trigger portion 17; pivot 32; spring 36; U-shaped cross section shown in figure 1, wherein the legs point in the direction of back leg 18, 29; handle 9; plurality of notches 34; pin juxtaposed elements 35 and 9. Biester does not disclose an arm support/forearm support, however, Glenn teaches arm support/forearm support 12. It would have been obvious to provide an arm support/forearm support in Biester as taught by Glen in order to use a hacksaw for longer periods of time with less fatigue and muscle strain. Note wings of arm cuff on either side of element 38 in figure 3 in Glenn.

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10. Claims 1, 10, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clifton, Jr. (5,325,597) in view of Wrench (5,275,068). Clifton, Jr. discloses frame in figure 1; elongated top portion/axis 27; front of frame is on the left-side of figure 1; rear side of frame is on the right-side of figure 1; front leg 28; back leg 29; means for supporting 31; blade 21.

Clifton, Jr. does not disclose a support arm, however, Wrench teaches support arm 11, 14, 16, 17, 21. It would have been obvious to provide a support arm in Clifton, Jr. as taught by Wrench in order to use a hacksaw for longer periods of time with less fatigue and muscle strain. Note that the support arm in Wrench is slidingly engaged in column 2, lines 27-29; U-shaped cross section of element 14 in figure 1; handle 30.

11. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Biester and Glenn as applied to claims 1-11, 13, 14, and 16-20 above, and further in view of Stewart (4,924,924). The combination discloses everything as noted above, but does not disclose padding. However, Stewart discloses padding 32. It would have been obvious to provide padding in the combination as taught by Stewart in order to reduce irritation and bruising to the user.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Garner is cited for a trigger, notches and a latch.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



IH
March 3, 2005


Allan N. Shoap
Supervisory Patent Examiner
Group 3700